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the parties, acting in the jurisdiction of that law, can acquire from their actions only such rights as that law gives.[7]

In a recent federal decision a creditor, domiciled in Michigan, made an assignment in Connecticut of all his future book accounts and bills receivable. By Connecticut law an assignment of future earnings is not valid against creditors unless recorded; by Michigan law no recording is necessary. In a petition by the Connecticut assignee, filed in Michigan bankruptcy proceedings against the assignor, it was held that the assignment was valid against creditors though not recorded. *Union Trust Co.* v. *Bulkeley*, 150 Fed. Rep. 510 (C. C. A., Sixth Circ.). The case raises both the foregoing and an additional problem. Whether there was any assignment should be determined by the law of Connecticut. If the statute of Connecticut[8] were properly to be construed as making the power of attorney defeasible, as by condition subsequent, on failure to record before the attaching claims of other creditors, Michigan would have to acknowledge here that the petitioner had no valid claim.[9] But such a statute is best to be treated as applying only to proceedings before the court of the state which enacted it. It pertains to the order in which a court will distribute a fund in its possession, or the proceeds of a claim against a debtor over whom it has jurisdiction. This is matter of procedure, and is governed, as the case properly says, by the law of the forum.[10] The question is in the first instance a construction of the Connecticut statute. But acknowledging that there was a valid assignment, the necessity of recording it would depend on the law of Michigan.

RIGHTS OF THE OWNER OF AN IDLE PATENT IN EQUITY. — The patent law of the United States is the direct outgrowth of the old English system of royal grants of exclusive rights to carry on a particular trade or manufacture. These monopolies, which were given sometimes to raise revenue but often to reward favorites, became so burdensome upon the people that in the reign of James I all were abolished by statute except letters patent to inventors.[1] The reason for this exception is evident. Unlike the owner of other monopolies, the patentee was regarded as giving something to the public in return for the favor which he received.[2] This reason explains why at the present time in the United States, when the drift of judicial decision and of legislation is against monopoly, there is a disposition on the part of the courts to treat the patentee leniently. His right of legal monopoly is regarded in the nature of a contract right, given him and his assigns by statute in consideration of the benefit conferred upon the public.[3] Therefore, though the law apparently gives the owner of a patent the right to do as he pleases with it, and recognizes in that right a species of property, so

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[7] *Cf.* Blackwell *v.* Webster, 23 Blatchf. (U. S.) 537; Carnegie *v.* Morrison, 2 Met. (Mass.) 381.

[8] Laws of Conn., 1905, c. 78.

[9] *Cf.* Vanbuskirk *v.* Hartford, etc., Co., 14 Conn. 582. *Contra*, Martin *v.* Potter, 34 Vt. 87.

[10] *Cf.* Kelly *v.* Selwyn, [1905] 2 Ch. 117.

[1] 21 Jac. 1, c. 3.

[2] See Cartwright *v.* Arnott, cited in Harmer *v.* Playne, 11 East 107; Grant *v.* Raymond, 6 Pet. (U. S.) 218, 242; Magic Ruffle Co. *v.* Douglas, 2 Fish. Pat. Cas. 330, 333.

[3] See Attorney-General *v.* Rumford Chemical Works, 32 Fed. Rep. 608, 617; Nat'l Hollow B. B. Co. *v.* Interchangeable B. B. Co., 106 Fed. Rep. 693, 701.

that he may let his invention lie idle if he so desires, yet the real spirit which animates the patent statutes is that the public should be benefited by the use of the invention.[4] The Circuit Court of Appeals has recently held, however, that the owner of a patent may have an injunction against the infringement of it, although there has been deliberate non-user of the patent-right. *Continental Paper Bag Co.* v. *Eastern Paper Bag Co.*, 150 Fed. Rep. 741 (First Circ.).

In England such a case is expressly covered by the statute, which provides for compulsory licenses in the case of non-user of the privilege.[5] In this country, in the absence of express statutory provision, the courts, at least those of equity, should contrive so far as possible to attain the same desirable result. There have been no decisions directly in point, though the language in many cases intimates broadly that the owner has an absolute right to deal with his patent as he sees fit.[6] However, these were mostly cases where the legal right was in question, and the courts were not considering whether equity in its discretion might not decline to aid in evading the true spirit of the patent law. There are many instances where equity refuses its extraordinary remedy, even though the right at law may be perfectly clear and the damages inadequate.[7] And equity interferes in favor of the patentee, not so much to prevent multiplicity of suits at law or because damages there may be inadequate, as to protect to the fullest extent the right which the state has given in return for the benefit conferred. It would seem, therefore, that an injunction should be denied in this case, where the patentee is demanding his side of the bargain and giving nothing in return,[8] unless, perhaps, he agrees to use the patent himself or to allow it to be used by others on payment of a reasonable license fee.

RIGHTS OF A LIFE TENANT WHO BUYS IN MORTGAGED PROPERTY. — It seems impossible to say that the relation between life tenant and remainderman is that of trustee and *cestui*,[1] or is of a fiduciary nature at all.[2] There is no privity between them, for a title gained by adverse possession during the existence of the life tenancy will not be valid against the remainderman.[3] The life tenant, moreover, unlike a trustee, may buy in the interest of the remainderman without disclosing all he knows.[4] To be sure, he owes certain duties, such as the duty not to commit waste; and an incumbrance bought in will enure to the benefit of the remainderman.[5] But these well-established results do not arise, as many courts have loosely said, from a

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[4] See Kendall *v.* Winsor, 21 How. (U. S.) 322, 328. See also Robinson, Patents, 4 ed., § 43.

[5] 2 Edw. 7, c. 34, § 3. See Terrell, Patents, 4 ed., 248.

[6] See Heaton-Peninsular, etc., Co. *v.* Eureka Specialty Co., 77 Fed. Rep. 288, 294; Bement *v.* Nat'l Harrow Co., 186 U. S. 70, 91.

[7] Mansfield *v.* Sherman, 81 Me. 365. See 16 HARV. L. REV. 444.

[8] See N. Y. Paper Bag, etc., Co. *v.* Hollingsworth, etc., Co., 56 Fed. Rep. 224, 231. But see Fuller *v.* Berger, 120 Fed. Rep. 274, 278. *Cf.* Brown Saddle Co. *v.* Troxel, 98 Fed. Rep. 620; Nat'l Folding Box, etc., Co. *v.* Robertson, 99 Fed. Rep. 985.

[1] See 11 HARV. L. REV. 333.

[2] Dicconson *v.* Talbot, L. R. 6 Ch. 32; Fidelity, etc., Deposit Co. *v.* Dietz, 132 Pa. St. 36.

[3] Higgins *v.* Crosby, 40 Ill. 260.

[4] See Anderson *v.* Lemon, 8 N. Y. 236, 237.

[5] See Whitney *v.* Salter, 36 Minn. 103; Myers *v.* Reed, 17 Fed. Rep. 401, 407.